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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,317	05/02/2001	Takehiro Shiimoto	925-193	4714

7590 02/12/2003

~~NIXON & VANDERHYE P.C.~~
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

EXAMINER

NGUYEN, TUAN M

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/846,317

Applicant(s)

SHIOMOTO, TAKEHIRO

Examiner

Tuan M Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.


- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5-7 and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kato et al (US patent 4,901,325). See the reasons as indicated in the Office Action mailed on 8-30-02 in paper No. 4, for the claims 1, 3 and 5-7.

With respect to claims 8-11, Kato et al shows in figure 5 a stem including a mounting surface, a first semiconductor laser chip (44) mounted on surface, a second semiconductor laser (43) mounted on the top of the first semiconductor . Figure 5 shows lasers (43 and 44) which are operated at 780 nm and 830 nm. Figure 5 also shows a smaller laser is mounted on top of a larger laser same as shown in figure 4 of the invention. According to the operating range of 780 nm and 830 nm, the top laser temperature is lower than the bottom laser temperature. Note col. 2 line 50 to col. 11 line 65.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al ('325) in view of Fisli ('359). See the reasons as indicated in the Office Action mailed on 8-30-02 in paper No. 4.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al ('325) in view of Otsuka et al ('088). See the reasons as indicated in the Office Action mailed on 8-30-02 in paper No. 4.

Response to Argument

5. Applicant's arguments filed on 11/25/2002 have been fully considered but they are not persuasive.

On pages 6-7 applicant argues that Kato fails to teach or suggest a second semiconductor laser element disposed on top of said first semiconductor laser element, said second semiconductor laser element having a temperature dependence lower than the temperature dependence of first semiconductor laser element. It is disagreed because Kato et al discloses a second semiconductor laser element (43) disposed on top of said first semiconductor laser element (44) operating at different wavelength, see col. 11. Since each of the first/second semiconductor laser elements (43, 44) has a first/second temperature dependence respectively and the second temperature dependence is lower than the first temperature dependence as claimed because Kato meets all the claimed structure limitations as discussed above and the lasers are operating within the claimed ranges. The Fisli patent teaches or suggests the different

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operating ranges which is consider as a matter of intended use of Kato. The claims of the inventions do not provide any structure in order to define the structural difference for operating in the claims ranges . Applicant's argument is not persuasive. The claims are not patentable over Kato et al.

Conclusion

6. The prior art made of record and relied upon is considered pertinent to applicant's discloses.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Communication Information

8. Any inquiry concerning this communication or earlier communications from the

~~examiner should be directed to Tuan M Nguyen whose telephone number is (703) 306-0247.~~

The examiner can normally be reached on 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3329.



Paul Ip
SPE
Art unit 2828

TMN
January 30, 2003